

REMARKS/ARGUMENTS

This Amendment is being filed in response to the non-final Official Action of June 25, 2008. The Official Action no longer rejects any of the pending claims as being anticipated by U.S. Patent No. 7,046,999 to Wu et al., but now instead rejects all of the pending claims as being anticipated by newly-cited U.S. Patent Application Publication No. 2005/0038660 to Black et al. That is, the Official Action rejects Claims 1-28 under 35 U.S.C. § 102(e) as being anticipated by Black. As explained below, however, Applicant respectfully submits that the claimed invention is patentably distinct from Black. Applicant has, however, amended various ones of the claims to further clarify the claimed invention. In view of the amendments to the claims and the remarks presented herein, Applicant respectfully requests reconsideration and allowance of all of the pending claims of the present application.

A. The Claimed Invention is Patentable over Black

Briefly, Black discloses an apparatus and method of providing voice-driven control of a media presentation. As disclosed (and annotated relative to FIG. 5), a voice-driven control device for a media system includes a controller 190 and a first communication port 602 to enable communication of instructions between a data processing system 10 and the controller; and a second communication port 605 to enable communication of instructions between a media device 7 and the controller. The controller includes a voice recognition system 170 to recognize human speech and to convert the human speech into commands that enable voice-driven control of a media presentation, as well as commands that enable voice-driven control of a functionality of the media device.

According to one aspect of the claimed invention, as reflected by amended independent Claim 1, an apparatus is provided. As recited, the apparatus includes a processor configured to send audio to another apparatus over an audio channel. The audio selectively includes voice communication and/or at least one or more coded tones, where the coded tones have been generated by the processor. The coded tone(s) are representative of one or more separate multimedia objects; and accordingly, the processor is configured to send the audio to enable the other apparatus, when the audio comprises coded tone(s), to decode the coded tone(s) to thereby

identify and present the multimedia object(s) represented thereby.

In contrast to amended independent Claim 1, Black does not teach or suggest sending a processor-generated, coded tone representative of a separate multimedia object, or in turn, decoding the coded tone to identify and present the respective multimedia object. The only audio disclosed by Black that one could argue corresponds to a coded tone is the human speech converted into commands by the disclosed voice recognition system. But even in this instance, Black's human speech is not processor-generated, and Black's commands are not coded tones, similar to amended independent Claim 1.

Applicant therefore respectfully submits that amended independent Claim 1, and by dependency Claims 2-6 and 25, is patentably distinct from Black. Applicant also respectfully submits that amended independent Claims 7, 13 and 19 recite subject matter similar to that of independent Claim 1, including sending a communication system-generated audio coded tone over an audio channel, and decoding the coded tone to identify and present a multimedia object represented by the respective tone. As such, Applicant respectfully submits that amended independent Claims 7, 13 and 19, and by dependency Claims 8-12, 14-18, 20-24 and 26-28, are also patentably distinct from Black, for at least the reasons given above with respect to amended independent Claim 1.

For at least the foregoing reasons as well as those presented below, Applicant respectfully submits that the rejection of Claims 1-28 as being anticipated by Black is overcome.

B. Additional Features of Dependent Claims 2-6, 8-12, 14-18 and 20-28

In addition to the foregoing, Applicant respectfully submits that various ones of dependent Claims 8-12, 14-18, 20-24 and 26-28 recite features further patentably distinct from Black.

I. Dependent Claims 2, 8, 14 and 20

Dependent Claims 2, 8, 14 and 20 further recite that the audio (selectively including voice communication or coded tone(s)) is sent during an exchange of audio communication, which is also absent from Black. Initially, Applicant notes that an exchange of audio

communication as per Claims 2, 8, 14 and 20 requires back-and-forth (i.e., an exchange of) audio communication between two systems or apparatuses. Instead, Black only discloses one-way communication of its audio signals. In this regard, Black does disclose a transfer of human speech from a microphone to a multimedia control device, which may convert the speech to commands and reproduce the speech at an audio system. However, Black does not also disclose any transfer of audio signals from the audio system back to the multimedia control device, or any transfer from the multimedia control device or audio system back to the microphone. In fact, Black does not disclose any communication from the audio system to any other component, or any communication from any component to the microphone.

2. Dependent Claims 3, 4, 9, 10, 15, 16, 21 and 22

Dependent Claims 3, 9, 15 and 21, and by further dependency Claims 4, 10, 16 and 22, further recite that the coded audio tone(s) represent multimedia object(s) presented at a system or apparatus with which the presenting apparatus or apparatus in respective independent Claims 1, 7, 13 and 19 exchanges audio communication, which Black fails to teach or suggest. Again, Black does not teach or suggest an exchange of audio communication. Further, Black only discloses one component configured to present multimedia objects, namely a multimedia device. Claims 3, 9, 15 and 21, and by further dependency Claims 4, 10, 16 and 22, recite that not only does the apparatus present a multimedia object, but that during its audio exchange with the apparatus, the apparatus (or its processor) is also configured to present a multimedia object.

3. Dependent Claims 25-28

Finally, in contrast to dependent Claims 25-28, Black does not teach or suggest an audio sensor enabling detection of whether the audio includes coded tone(s) as the audio is output. For this feature of the claims, the Official Action cites a paragraph (paragraph [0025]) describing the communication channel 130 between Black's multimedia control device and data processing device. Applicant respectfully submits, however, that under no reasonable interpretation consistent with the specification, or any ordinary and customary meaning, may an audio sensor be considered a communication channel. By their very terms, audio sensors and communication

Appl. No.: 10/797,210
Amdt. dated July 8, 2008
Reply to Official Action of June 25, 2008

channels perform vastly different functions. That is, an audio sensor such as that of Claims 25-28 senses audio inputs, whereas a communication channel such as that disclosed by Black merely passes data between two components.

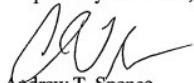
Appl. No.: 10/797,210
Amdt. dated July 8, 2008
Reply to Official Action of June 25, 2008

CONCLUSION

In view of the amendments to the claims and the remarks presented herein, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Andrew T. Spence
Registration No. 45,699

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111
LEGAL02/30864876v1

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON JULY 8, 2008.